

REMARKS

Claims 1-9 and 19-36 have been canceled without prejudice. Claim 17 has been amended to delete pamoate as the organic ion. Claim 17 now properly depends from claim 10. New claim 37 has been added, support for which can be found at least in claim 10. Claims 10-14, 16-18, and 37 are now pending.

Claims 10-14, 16 and 18 have been rejected under 35 U.S.C. § 103(a) as being obvious over Orsolini et al. WO 2002/058672 ("Orsolini") in view of U.S. Patent 4,171,981 to Austin et al. ("Austin"). Applicant respectfully traverses this rejection.

The Examiner acknowledges that Orsolini fails to disclose an organic ion recited in claim 10. The Examiner relies on Austin for a disclosure of naphthalene sulfonic acid as a dispersing agent and argues that it would have been obvious to optimize the microparticles of Orsolini using naphthalene sulfonic acid because Austin teaches that is known to use naphthalene sulfonic acid to *obtain* a microcapsule useful in the pharmaceutical art. Applicant respectfully disagrees with the Examiner's conclusion.

Austin does not teach, suggest, or provide motivation for using naphthalene sulfonic acid in an aqueous phase of an emulsion process used to prepare microparticles. Rather, Austin teaches that sulfonic acid salts can be used to disperse microparticles in a hot melt suspending medium, after the microparticles have already been obtained. Austin at column 6, lines 52-57. In contrast to the Examiner's suggestion, Austin does not at all teach that naphthalene sulfonic acid is used to *obtain* a microcapsule. Thus, no teaching, suggestion, or motivation has been provided for adding the sulfonic acid salts of Austin to the *aqueous phase* or Orsoline to *obtain* a microparticle. Accordingly, Applicant respectfully requests withdrawal of the rejection and allowance of claims 10-14, 16-18, and 37.

In contrast to claim 18, neither Orsolini, Austin, nor Bodmer teaches an organic ion from among the recited list that “interacts with the bioactive agent to form a charged or neutral complex.” Allowance of claim 18 is therefore respectfully requested for this additional reason.

In contrast to claim 16, neither Orsolini, Austin, nor Bodmer teaches a stoichiometry of the bioactive agent relative to the organic ion ranging from about 1.0 to 1.5, nor has the Examiner provided any reason for why this stoichiometry would have been obvious. Allowance of claim 16 is therefore respectfully requested for this additional reason.

In contrast to new claim 37, neither Orsolini, Austin, nor Bodmer teaches an organic ion selected from trifluoromethyl-p-toluate, 2,3-naphthalene dicarboxylate, 1-hydroxy-2-naphthoate, 3-hydroxy-2-naphthoate, 2-naphthoate, and salicylsalicylate. At best, Austin teaches sodium salts of condensed naphthalene sulfonic acid (Austin at column 6, lines 59-61), which as discussed above are only added to microparticles after they have been prepared. However, Austin fails to teach any organic ions recited in new claim 37. Allowance of new claim 37 is therefore respectfully requested for this additional reason.

The Examiner is invited and encouraged to directly contact the undersigned if such contact may enhance the efficient prosecution of this application to issue. No fees are believed to be due; however, the Commissioner is hereby authorized to charge any additional fees which may be required to enter this response, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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